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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,397	09/22/2005	Takashi Hosoya	740819-1126	2304
22204	7590	01/24/2008		
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			EXAMINER SANTOS, ROBERT G	
			ART UNIT 3673	PAPER NUMBER
			MAIL DATE 01/24/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/550,397	Applicant(s) HOSOYA ET AL.	
	Examiner Robert G. Santos	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/22/2005, 10/26/2006 and on 11/02/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 12-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20061026</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 10 and 12-27 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 2, 2007.

Claim Rejections - 35 USC § 112

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites a method step (which lacks patentable weight in apparatus claims).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,022,105 to Catoe. Catoe shows the claimed limitations of a stretcher including a bed (16), legs (24, 26) foldably provided on the bed and casters (28) provided at the legs, respectively, the stretcher further comprising an ascent assist device having: a lifting mechanism (56) for giving

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the bed an ascending force; and a switch (58) for turning the lifting mechanism on/off (as shown in Figure 6A and as described in column 3, lines 10 & 16); wherein the legs are configured to raise the bed by deploying from the bed (as shown in Figures 6A & 6C), and the lifting mechanism is configured to give the bed an ascending force by giving the legs a force toward deployment (as described in column 3, lines 3-19); wherein the lifting mechanism has an actuator in the form of a pneumatic cylinder (as described in column 3, lines 3-6) into which high-pressure gas is introduced to give the bed an ascending force, the stretcher further comprises a tank (50) for storing high-pressure gas, a gas pipe line (52) for connecting the tank and the actuator, and the switch is a switch for opening and closing the flow path of the gas pipe line (via elements 54).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catoe '105 in view of U.S. Pat. No. 5,365,622 to Schirmer. As concerns claims 5, 6, 8 and 9, Catoe does not specifically disclose the use of a speed controller for controlling the speed of gas exhausted from the vented chamber of the pneumatic cylinder (56), a speed controller for controlling the speed of high-pressure gas flowing from the tank (50) into the pneumatic cylinder, and a speed control means for controlling the speed for the bed when the bed is raised

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and lowered by the lifting mechanism. Schirmer provides the basic teaching of a stretcher (10) comprising an ascent assist device comprising a lifting mechanism having an actuator in the form of a pneumatic cylinder (126, 128), a tank (80, 130) for storing high-pressure gas, a gas pipe line for connecting the tank and the pneumatic cylinder, a speed controller (174, 174') for controlling the speed of gas exhausted from the vented chamber of the pneumatic cylinder, a speed controller (172) for controlling the speed of high-pressure gas flowing from the tank into the pneumatic cylinder, and a speed control means for controlling the speed for the bed when the bed is raised and lowered by the lifting mechanism (as shown in Figures 14 & 15 and as further described in column 10, lines 43-48). The skilled artisan would have found it obvious at the time the invention was made to provide the stretcher of Catoe with a speed controller for controlling the speed of gas exhausted from the vented chamber of the pneumatic cylinder, a speed controller for controlling the speed of high-pressure gas flowing from the tank into the pneumatic cylinder, and a speed control means for controlling the speed for the bed when the bed is raised and lowered by the lifting mechanism in order to facilitate and ensure the smooth operation of the stretcher as the bed portion is vertically adjusted, thereby providing enhanced comfort and support to a patient positioned thereon.

With respect to claims 7 and 11, Schirmer also provides the basic teaching of a gas source placed in an ambulance vehicle for introducing the high-pressure gas into the tank (see column 7, lines 8-11). The skilled artisan would have found it obvious at the time the invention was made to provide the stretcher of Catoe with a gas source placed in an ambulance for introducing the high-pressure gas into the tank in order to ensure further proper operation of the ascent assist device.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walkingshaw '454, Hosoya et al. '203, Walkingshaw '226, Benedict et al. '480, Walkingshaw '997, Walkingshaw '981, Jehn '424, Van Den Heuvel et al. '973, Jehn '672, Heuvel et al. '486, Weipert '269, Bethlen '849.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, reading "Robert G. Santos". The signature is written in a cursive style with a large, stylized "R" and "S".

Robert G. Santos
Primary Examiner
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R.S.
January 20, 2008